THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1282 OF 2006

DATED:25.1.2006

Between:

Badam Annapurna

and others

…Petitioner

And

The Municipal Corporation of Kakinada

Rep. by its Commissioner,

Kakinada, and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1282 OF 2006

ORDER:

The petitioners 1 and 2 are owners of premises bearing Nos.28-1-45, 13-1-17/2 respectively, and petitioners 3 and 4 are joint owners of premises bearing No.13-1-17/1 situated at Main Road, Kakinada, East Godavari District. It is alleged that the officials of the Kakinada Municipal Corporation (KMC) came to the petitioners' premises and marked certain portion of the premises for demolition for widening the Road. The petitioners are not willing to give consent to handover possession. The petitioners allege that the action of the respondents in proposing to demolish their premises without following due process is illegal and arbitrary.

Heard the learned counsel for the petitioners and the learned Standing Counsel for

KMC. After getting instructions in the matter, the learned Standing Counsel for KMC submits that if the petitioners are not willing to give their consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporation Act, 1955 (the HMC Act, for short) for acquiring the land. The learned Counsel does not dispute that unless the petitioners are deprived of their property in accordance with due process of law, their right to enjoy the property cannot be denied.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioners or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners or acquiring the land as per Section 147 of the HMC Act in case the owners are not inclined to give willingness to part with the land voluntarily. The respondent authorities cannot high-handedly take coercive action against petitioners.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the Act are initiated, the petitioners' right to enjoy their property cannot be denied nor KMC officials can demolish premises of the petitioners, without notice.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

25.1.2006

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